

## COMMERCIAL RELATIONS

*Treaty signed at Washington October 20, 1920,<sup>1</sup> supplementing and amending treaty of October 8, 1903*

*Ratified by China January 4, 1921*

*Senate advice and consent to ratification May 26, 1921*

*Ratified by the President of the United States October 31, 1921*

*Ratifications exchanged at Washington November 5, 1921*

*Entered into force November 5, 1921*

*Proclaimed by the President of the United States November 7, 1921*

*Terminated, in part, by treaty of July 25, 1928<sup>2</sup>*

*Superseded November 30, 1948, by treaty of November 4, 1946<sup>3</sup>*

42 Stat. 1955; Treaty Series 657

WHEREAS, it was agreed by Article VI (e), 1, and 3, of the Final Protocol entered into between the Powers and China, concluded at Peking, September 7, 1901,<sup>4</sup> that the import tariff on goods imported into China by sea should be an effective five per cent. ad valorem;

AND WHEREAS, following the conclusion of said Protocol, and pursuant to the provisions of the first paragraph of Article XI thereof, a Treaty regarding Commercial Relations between the Government of the United States of America and the Government of China was concluded at Shanghai on the 8th day of October, 1903,<sup>5</sup> ratifications of which were duly exchanged on the 13th day of January, 1904;

AND WHEREAS, by Article V and Annex III of the said treaty it was agreed that the tariff of duties to be paid by the citizens of the United States of America on goods imported into China should be as set forth in the schedule<sup>6</sup> annexed to and made a part of that Treaty as Annex III thereof, subject only to such amendments and changes as were authorized by Article IV of that treaty or as might thereafter be agreed upon by the High Contracting Parties, and that the citizens of the United States of America should at no time pay other or higher duties on goods imported into China than those paid by the citizens or subjects of the most favored nation;

<sup>1</sup> For tariff schedule annexed to treaty, see 42 Stat. 1957 or p. 4 of TS 657.

<sup>2</sup> TS 773, *post*, p. 721.

<sup>3</sup> TIAS 1871, *post*, p. 761.

<sup>4</sup> *Ante*, vol. 1, p. 278.

<sup>5</sup> TS 430, *ante*, p. 695.

<sup>6</sup> See footnote 1, p. 695.

AND WHEREAS, a commission composed of delegates of the governments of the United States of America and certain other powers having treaties with China regarding the duties to be paid by their citizens or subjects on imports into China, and delegates of the Republic of China has, at various conferences held at Shanghai between the 17th day of January, 1918, and the 20th day of December, 1918, agreed upon a proposed revision of the import tariff of China to the end that the rate of duty may be an effective five per cent. ad valorem on all foreign merchandise imported into China;

AND WHEREAS, the Government of the United States of America and the Government of the Republic of China desire to confirm the application of the proposed revised tariff of duties to importations of goods into China by citizens of the United States, the two Governments have determined to conclude this supplementary treaty, and have appointed for that purpose as their plenipotentiaries:

The President of the United States of America, Mr. Bainbridge Colby, Secretary of State of the United States; and

The President of the Republic of China, Mr. Vi Kyuin Wellington Koo, envoy extraordinary and minister plenipotentiary of the Republic of China at Washington;

Who, having met and duly exhibited to each other their full powers, which were found to be in proper form, have agreed upon the following articles:

#### ARTICLE I

The tariff of duties, which under the provisions of Article V of the Treaty regarding Commercial Relations signed by the plenipotentiaries of the United States of America and China at Shanghai on the 8th day of October, 1903, are annexed to and made a part of that treaty, as Annex III thereof, shall, beginning with the date of the exchange of ratifications of the present treaty, cease to apply to goods imported into China by citizens of the United States of America.

The rules attached to the schedule of duties annexed to the Treaty regarding Commercial Relations signed by the plenipotentiaries of the United States of America and China at Shanghai on the 8th day of October, 1903, are amended as agreed upon by the High Contracting Parties and as so amended are hereunto annexed and continued in full force and effect.

#### ARTICLE II

The tariff of duties and the rules hereunto annexed, shall beginning with the date of the exchange of ratifications of the present treaty be in full force and effect at the ports and places of China open to commerce with foreign countries, and beginning with the date of the exchange of ratifications the said duties shall be paid by citizens of the United States of America on goods

imported into China, until modified or changed by agreement between the two High Contracting Parties; but the citizens of the United States of America shall at no time be required to pay other or higher duties on goods imported into China than are paid by the citizens or subjects of the most favored nation.

[For tariff schedule (annex I), see 42 Stat. 1957 or p. 4 of TS 657.]

### ARTICLE III

Except as provided in Articles I and II of the present treaty, the articles and provisions of the treaty signed at Shanghai, October 8, 1903, between the plenipotentiaries of the United States of America and China, shall continue in full force and effect, and the articles and provisions of the present treaty shall be read and construed as a supplementary treaty thereto, and shall be as binding and of the same efficacy as if they had been inserted therein.

### ARTICLE IV

In the event of there being any difference of meaning between the English and Chinese texts of the present treaty, the English text shall be held to be the correct one.

This treaty and the tariff of duties and rules hereunto annexed shall be ratified by the two High Contracting Parties in conformity with their respective constitutions, and the ratifications shall be exchanged at Washington.

IN TESTIMONY WHEREOF, the plenipotentiaries of the two High Contracting Parties, by virtue of their respective powers, have signed this treaty in duplicate in the English and Chinese languages, and have affixed their respective seals.

DONE at Washington this twentieth day of October in the year one thousand nine hundred and twenty, corresponding to the twentieth day of the tenth month of the ninth year of the Republic of China.

BAINBRIDGE COLBY	[SEAL]
VI KYUIN WELLINGTON KOO	[SEAL]

### ANNEX II

#### RULES

##### RULE I

Imports unenumerated in this Tariff will pay Duty at the rate of 5 per cent ad valorem; and the value upon which Duty is to be calculated shall be the wholesale market value of the goods in local currency. This market value when converted into Haikwan Taels shall be considered to be 12 per cent higher than the amount upon which Duty is to be calculated.

If the goods have been sold before presentation to the Customs of the Application to pay Duty, the gross amount of the bona fide contract will be accepted as evidence of the market value. Should the goods have been sold on c. f. and i. terms, that is to say, without inclusion in the price of Duty and other charges, such c. f. and i. price shall be taken as the value for Duty-paying purposes without the deduction mentioned in the preceding paragraph.

If the goods have not been sold before presentation to the Customs of the Application to pay Duty, and should a dispute arise between Customs and importer regarding the value or classification of goods, the case will be referred to a Board of Arbitration composed as follows:

An official of the Customs;

A merchant selected by the Consul of the importer; and

A merchant, differing in nationality from the importer, selected by the Senior Consul.

Questions regarding procedure, etc., which may arise during the sittings of the Board shall be decided by the majority. The final finding of the majority of the Board, which must be announced within fifteen days of the reference (not including holidays), will be binding upon both parties. Each of the two merchants on the Board will be entitled to a fee of ten Haikwan Taels. Should the Board sustain the Customs valuation, or, in the event of not sustaining that valuation, should it decide that the goods have been undervalued by the importer to the extent of not less than  $7\frac{1}{2}$  per cent., the importer will pay the fees; if otherwise, the fees will be paid by the Customs. Should the Board decide that the correct value of the goods is 20 per cent. (or more) higher than that upon which the importer originally claimed to pay Duty, the Customs authorities may retain possession of the goods until full Duty has been paid and may levy an additional Duty equal to four times the Duty sought to be evaded.

In all cases invoices, when available, must be produced if required by the Customs.

#### RULE II

The following will not be liable to Import Duty: Foreign Rice, Cereals, and Flour; Gold and Silver, both Bullion and Coin; Printed Books, Charts, Maps, Periodicals, and Newspapers.

A freight or part freight of Duty-free commodities (Gold and Silver Bullion and Foreign Coins excepted) will render the vessel carrying them, though no other cargo be on board, liable to Tonnage Dues.

Drawbacks will be issued for Ships' Stores and Bunker Coal when taken on board.

#### RULE III

Except at the requisition of the Chinese Government, or for sale to Chinese duly authorized to purchase them, Import trade is prohibited in all

Arms, Ammunition, and Munitions of War of every description. No Permit to land them will be issued until the Customs have proof that the necessary authority has been given to the importer. Infraction of this rule will be punishable by confiscation of all the goods concerned. The import of Salt is absolutely prohibited.

RULE IV

The importation of opium and poppy seeds is absolutely prohibited. The importation of the following articles is prohibited except under bond by qualified medical practitioners, druggists and chemists: Morphia and cocaine and hypodermic syringes; anti-opium pills containing morphia, opium or cocaine, novocaine, stovaine, heroin, thebaine, ghanja, hashish, bhang, Cannabis indica, tincture of opium, laudanum, codeine, dionin, and all other derivatives of opium and cocaine.